IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIRST DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 21421 of 2004

Between:

P.Mallikarjuna Reddy, S/o Late P.Ramachandra Reddy,
R/o Tondawada Village, Chandragiri Mandal, Chittoor District

.....PETITIONER

AND

1 The Mandal Revenue Officer, Chandragiri Mandal, Chittoor District
2 The District Collector, Chittoor District
3 The Government of Andhra Pradesh, rep.by Secretary, Revenue Department, Secretariat Buildings, Hyderabad

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue any writ, Order or direction more in the nature of Writ of Mandamus directing the respondents declare the petitioner as land less poor person and directed the respondents to assign the land in Sy.No270, 271, 272 and 25 total admeasuring Ac.1-85 cents situated Thondawada Village, Chandragiri Mandal, Chittoor District.

Counsel for the Petitioner: MR.THIMMADISUDHAKAR REDDY

Counsel for the Respondents: GP FOR REVENUE

The Court at the admission stage made the following:

ORDER:

The petitioner claims to be in possession and enjoyment of an extent of Ac.1-85 cents of land comprising Ac.1-05 cents in survey Nos. 270, 271 and 272 and Ac.0-80 cents in Survey No.25 of Thodawada village, Chandragiri Mandal of Chittoor District, for more than 35 years by paying taxes to the Government. He states that to the notice issued by the Tahsildar, Chandragiri, on 05-12-1983 under A.P.Land Encroachment Act, 1905 regarding the land in question, he submitted an explanation, but no orders have been passed thereon so far. Seeking a direction to the respondents to assign the said land in his favour, he filed the writ petition.

Heard the learned counsel for the petitioner and the learned Government Pleader for Revenue and with their consent the writ petition is finally disposed of at the stage of admission.

The learned Government Pleader for Revenue submitted that the respondents have not at all received the explanation alleged to have been submitted by the petitioner to the notice issued by the Tahsildar, Chandragiri, under the provisions of A.P. Land Encroachment Act, 1905 for the land in question. He further submitted that already eviction proceedings have been initiated in respect of the land in question under A.P. Land Encroachment Act, 1905, and to avoid the said proceedings, the petitioner filed the present writ petition.

Though the petitioner contends that he has filed explanation to the notice issued under A.P. Land Encroachment Act, 1905 he has not filed any proof thereof. Be that as it may, when once notice under the provisions of the A.P. Land Encroachment Act, 1905 have been issued, for eviction of the petitioner from the land, which admittedly belongs to the government, the only course open to the petitioner is to file his explanation and certainly when proceedings under the

A.P. Land Encroachment Act, 1905 are initiated against him for his eviction, he cannot seek assignment, and in the guise of seeking directions to the respondents to assign the land, he cannot be allowed to frustrate the proceedings initiated against him for his eviction under the A.P. Land Encroachment Act, 1905.

Accordingly, the writ petition is dismissed at the stage of admission. No costs.

01.12.2004

MRKR/TVK

To

1 The Mandal Revenue Officer, Chandragiri Mandal, Chittoor District
2 The District Collector, Chittoor District
3 The Government of Andhra Pradesh, rep.by Secretary, Revenue Department, Secretariat Buildings, Hyderabad

4 Two C.Cs to Government Pleader for Revenue, High Court Buildings, Hyderabad (OUT).

5 Two C.D copies